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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,379	01/20/2006	Patrick Delponte	062845-5050US	4991

28977 7590 08/03/2010
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EXAMINER

SEVILLA, CHRISTIAN ANTHONY

ART UNIT	PAPER NUMBER
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3775

MAIL DATE	DELIVERY MODE
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08/03/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,379	Applicant(s) DELPONTE ET AL.	
	Examiner CHRISTIAN SEVILLA	Art Unit 3775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' Amendment filed May 25, 2010 is acknowledged. Claims 1-14 have been canceled. New claims 15-30 have been entered.

Response to Arguments

Applicant's arguments with respect to claims 15-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-21 and 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson, *et al.* (US 6203572; "Johnson" herein).

Regarding claim 15, Johnson discloses equipment for repairing a biological tissue comprising an implantable link including a conical tubular part (G; Fig. 3) configured and dimensioned to receive a bone screw (44; Fig. 8) therein; and at least two cords (10, 12) {Fig. 4; col. 2, lines 59-61} extending from a proximal end (18) of the tubular part each of the cords having a length greater than a length of the tubular part.

Regarding claim 16, Johnson discloses a component of the equipment comprises a bioresorbable material {sutures are bioabsorbed; col. 3, lines 53-54}.

Regarding claim 17, Johnson discloses the proximal end has a diameter greater than a diameter of the distal end (20) {col. 2, line 61}

Regarding claim 18, Johnson discloses the tubular part is constructed from a plurality of threads {col. 2, lines 59-61}.

Regarding claim 19, Johnson discloses each of the cords is constructed from at least a portion (28) of the plurality of threads {Fig. 3}.

Regarding claim 20, Johnson discloses each of the cords is constructed from a plurality of threads(10, 12; Fig. 2).

Regarding claim 21, Johnson discloses the plurality of threads is assembled to rigidify the cords at free ends thereof {tension applied to threads 10, 12 rigidifies the threads 10, 12; Fig. 3}.

Regarding claim 23, Johnson discloses the at least two cords includes four cords (10, 12) {Fig. 3}.

Regarding claim 24, Johnson discloses a bone screw (44) {Fig. 8} configured and dimensioned to engage an inner surface of the tubular part when the bone screw is received in the tubular part.

Regarding claim 25, Johnson discloses the bone screw includes a proximal portion {e.g., rightmost portion of screw 44 in Fig. 8} configured and dimensioned to be tightly received within the tubular part.

Art Unit: 3775

Regarding claim 26, Johnson discloses the bone screw is configured and dimensioned to anchor the tubular part in a bone (*e.g.*, a femur or tibia; Fig. 8) proximate the biological tissue.

Regarding claim 27, Johnson discloses the bone screw is a headless interference screw {col. 3, lines 55-61}.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Chvapil (US 5078744).

Johnson fails to disclose the cords are approximately at least 30 cm in length.

Chvapil discloses obtaining graft fibers from bovine Achilles tendon having a length in the range of 8-30 centimeters {col. 2, lines 42-49}.

It would have been obvious to a person having ordinary skill in the art to have modified Johnson in view of Chvapil to include the cords that are approximately at least 30 cm in length. Doing so would have provided a length of cord in accordance with the size and type of tendon or ligament being replaced.

Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Martins, *et al.* (US 5306290; “Martins” herein).

Johnson fails to disclose one or more stop elements configured and dimensioned to form a locking engagement with the cords; the one or more stop elements includes a through-hole configured and dimensioned to receive at least one of the cords therethrough; and the one or more stop elements includes two through-holes, each through-hole configured and dimensioned to receive at least one of the cords therethrough.

Martins discloses a suture retaining button (5) {Fig. 3} including holes (45, 50) to accommodate sutures {col. 4, lines 7-10} and an internal chamber (25) to accommodate one or more suture knots {col. 3, lines 64-68}.

It would have been obvious to a person having ordinary skill in the art to have modified Johnson in view of Martins to include one or more stop elements configured and dimensioned to form a locking engagement with the cords; the one or more stop elements includes a through-hole configured and dimensioned to receive at least one of the cords therethrough; and the one or more stop elements includes two through-holes, each through-hole configured and dimensioned to receive at least one of the cords therethrough. Doing so would have more securely affixed the cords to bone, thereby further preventing undesired movement or shifting of the cords relative to the bone after implantation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTIAN SEVILLA whose telephone number is (571)270-5621. The examiner can normally be reached on Monday through Thursday, 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS C. BARRETT can be reached on (571)272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3775

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTIAN SEVILLA/
Examiner, Art Unit 3775

/Thomas C. Barrett/
Supervisory Patent Examiner, Art
Unit 3775